



July 2, 2020

The Honorable Colorado State House of Representatives
72nd General Assembly
Second Regular Session
Colorado State Capitol
Denver, CO 80202

Dear Honorable Members of the Colorado State House of Representatives:

Today I vetoed House Bill 20-1085, "Concerning the prevention of substance use disorders." HB20-1085 is an opioid addiction prevention bill, one of several addiction related bills passed during the 2020 Legislative Session that have come before me for action.

The sponsors of House Bill 20-1085 ("HB20-1085") and the members of the Opioid and Other Substance Use Disorders Interim Committee have done a great service to Colorado by working diligently to study and develop strategies to address one of our most profound, persistent, and pressing problems facing Colorado. Addressing opioid addiction and substance use disorders is critically important to protecting the health of Coloradans, and I applaud their and the General Assembly's leadership on this issue.

HB20-1085 does a number of things, all with the laudable objectives of avoiding opioid addictions and increasing access to care for those who are addicted. Importantly, HB20-1085 would extend indefinitely current opioid prescribing limits, including a seven-day prescription limit, which is set to repeal on September 1, 2021. It also would extend indefinitely the requirement that health care providers query the Prescription Drug Management Program (PDMP) before prescribing a second fill for an opioid. That requirement is also due to repeal on September 1, 2021. I would encourage the General Assembly, at a bare minimum, to extend those provisions in next year's session.

The reason why I vetoed this bill is because it adds to the mandatory coverage provision section in Title 10, C.R.S., which regulates private health insurance in the State, without language that protects the general fund or a mutually agreed-upon process around transparency on costs and benefits. Those new sections of statute would, if adopted, include a requirement that carriers cover nonpharmacological treatment as an alternative to opioids. The treatment mandate in the bill includes a minimum of six annual physical therapy visits, six annual acupuncture visits, six annual occupational therapy visits, and six annual chiropractic visits with cost sharing that is no greater than that charged for a primary care visit for non-preventive services. Health insurance carriers estimate this will add between \$22M to \$38M to the cost of premiums.

In the statement I issued when I signed HB20-1158 ("Concerning insurance coverage for infertility, and, in connection therewith, making an appropriation") on April 1, 2020, I encouraged the General Assembly to establish a process to conduct actuarial reviews of all new mandates in future years to determine the cost implications of those bills for Colorado consumers. At the time, I suggested the General Assembly could pass SB20-127 or similar legislation to ensure that lawmakers and our administration would have adequate data on which to base policy decisions. Unfortunately, no such proposal was advanced during the most recent, shortened legislative session. So today, I am directing my Commissioner of Insurance to work with the General Assembly to design legislation for the 2021 session that would establish just such a process. That legislation should at the very least direct a third party actuarial analysis for any new

coverage mandate that weighs the cost of any new mandatory coverages against the potential long-term cost-savings resulting from additional benefits or services, and should also be paired with an analysis of the potential health benefits that would result if the proposed new mandate were to take effect. Cost reduction and increasing access are both important goals of health care, and they should be balanced. A thoughtful process will provide meaningful information to the legislative and executive branches to help us all make good decisions that save people money on and increase access to healthcare.

In my letter dated April 1, I also indicated that a precondition for my signature on this or any other mandate bill would be the inclusion of language to protect the state's general fund from unanticipated costs if the mandate is deemed new under the Affordable Care Act. According to the Commissioner of Insurance's understanding of new regulatory guidance issued by the Trump administration, any new mandate could put the state at risk for the increased cost of premiums in the individual and small group markets. Given our current fiscal situation, Colorado is sadly not in a position to absorb increased costs of private health insurance. HB20-1085 does not contain such a provision to safeguard the general fund, and I would ask that if the sponsors revisit this or similar legislation next year, they include that language to ensure our state budget and general fund are protected.

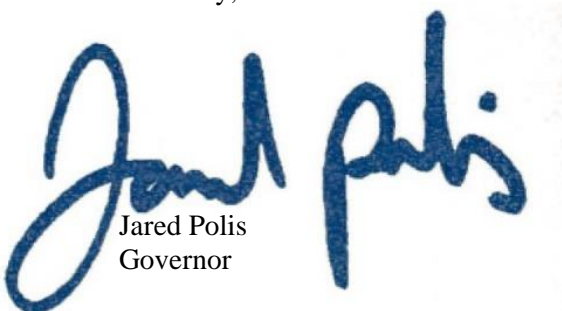
I recognize this bill is the result of a great deal of work, and indeed, I agree with the underlying premise of the legislation: we must do more to elevate alternative pain management treatments to reduce the use of opioids. Those treatment mandates included in the bill are demonstrated to reduce pain. I also recognize that it is important to extend prescribing limits as well as use of the Prescription Drug Management Program before September 2021, when the program would otherwise sunset. Fortunately, there is time to do that in the 2021 legislative session. There is also time to review the mandate included in this bill according to the process that will be designed to evaluate the cost impact of all future mandate proposals, and still have it potentially take effect for the 2022 plan year -- the same year this bill's coverage provisions would have taken effect. Thus, a veto in this case does not necessarily mean a delay.

I made it clear, beginning with my Signing Statement of April 1, and through numerous discussions with legislators, that I would not sign any additional bills that included insurance benefits mandates until all such bills are evaluated through a uniform process that examines associated premium increases or decreases as well as the total impact of the proposed legislation. I look forward to working with the bill sponsors and the General Assembly to design that process.

One of my highest priorities is saving people money on health care, a goal I know we share with the General Assembly. Together, we've taken tremendous steps to further that agenda for all Coloradans. I look forward to our continued efforts to improve access to affordable health care for the people of Colorado.

Accordingly, HB 20-1085 is disapproved and vetoed.

Sincerely,



Jared Polis
Governor